

Filed 3/18/10 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2010 ND 48

Jarick Products, Inc. d/b/a
Dakota Gypsum,

Plaintiff and Appellee

v.

MID AM Group, LLC,

Defendant

and

D. Duane Peterson,

Defendant and Appellant

No. 20090290

Appeal from the District Court of Cass County, East Central Judicial District,
the Honorable Douglas R. Herman, Judge.

AFFIRMED.

Per Curiam.

Monte L. Rogneby (argued), Vogel Law Firm, P.O. Box 2097, Bismarck, ND 58502-2097, Jon R. Brakke (on brief) and Michael S. Raum (on brief), Vogel Law Firm, P.O. Box 1389, Fargo, ND 58107-1389, for plaintiff and appellee.

L. Patrick O'Day, Jr., P.O. Box 1727, Fargo, ND 58107-1727, for defendant and appellant.

Jarick Products v. MID AM Group

No. 20090290

Per Curiam.

[¶1] D. Duane Peterson appealed from the district court's order denying his motion to vacate the default judgment under N.D.R.Civ.P. 60(b). On appeal, Peterson argued the district court erred by denying his motion because the default judgment pierced the corporate veil of his limited liability corporation, and his six to seven month delay in bringing his Rule 60(b) motion was reasonable. The district court did not abuse its discretion in denying Peterson's motion. The order is affirmed under N.D.R.App.P. 35.1(a)(4) and (7). See Royal Indus., Inc. v. Haugen, 409 N.W.2d 636, 638 (N.D. 1987) (quoting Bender v. Liebelt, 303 N.W.2d 316, 318 (N.D. 1981)) (holding a disregard of legal process is not excusable neglect under Rule 60(b)); Follman v. Upper Valley Special Educ. Unit, 2000 ND 72, ¶ 11, 609 N.W.2d 90 (quoting Industrial Comm'n of North Dakota v. Wolf, 1999 ND App 2, ¶ 6, 588 N.W.2d 590) (holding a Rule 60(b) motion does not "relieve a party from free, calculated, and deliberate choices").

[¶2] Gerald W. VandeWalle, C.J.
Dale V. Sandstrom
Daniel J. Crothers
Mary Muehlen Maring
Donovan J. Foughty, D.J.

[¶3] The Honorable Donovan J. Foughty, D.J., sitting in place of Kapsner, J., disqualified.